witness. As to whether or not a party may corroborate his witness, who has been impeached, by proof that out of court he made statements consistent with his testimony at the trial, there is a clear conflict of authority. That he may: *State* v. *Moon,* 20 Idaho 202; *Reynolds* v. *State,* 147 Ind. 3; *State* v. *Caddy,* 15 S. D. 167; *English* v. *State,* 34 Tex. Crim. 190. That he may not: *People* v. *Katz,* 209 N. Y. 311; *People* v. *Jung Hing,* 212 N. Y. 393; *Edwards* v. *Commonwealth,* 145 Ky. 560; *People* v. *Turner,* 1 Cal. App. 420; *Brown* v. *People,* 17 Mich. 429; *Commonwealth* v. *James,* 99 Mass. 438. Since, therefore, under the New York decisions the testimony in question was neither competent as impeaching not corroborating evidence, the decision of the majority opinion would seem to be sound.

EVIDENCE—JUDGE AS WITNESS.—Upon a trial for criminal libel the defendant moved that a judge from another county be called for the trial of the cause on the ground that the judge before whom the motion was made would be called as a material and necessary witness for the defendant. The motion was denied and in the course of the trial, when the judge was actually called to testify, he refused to do so, holding that the matter concerning which his testimony was offered was immaterial. *Held,* no error; that a judge cannot, over the objection of a party, be a witness in an action tried before him, in the absence of a statute so providing. *State* v. *Sefrit,* (Wash. 1914), 144 Pac. 725.

A judge is not at common law a competent witness in a case pending before him. *Maitland* v. *Zanga,* 14 Wash. 92; *Rogers* v. *State,* 60 Ark. 76; *Shockley* v. *Morgan,* 103 Ga. 156; *State* v. *De Maio,* 69 N. J. L. 590; *Gray* v. *Crockett,* 35 Kan. 66. He may, however, in a subsequent trial testify as to facts which transpired before him at a former trial. *Taylor* v. *Larkin,* 12 Mo. 103; *State* v. *Hindman,* 159 Ind. 586; *Sigourney* v. *Sibley,* 21 Pick (Mass,) 101. A judge may testify when the court of which he is a member is composed of several judges, provided there still remains a legal tribunal to try the cause. But when he so testifies he should not again return to the bench. *People* v. *Dohring,* 59 N. Y. 374; *People* v. *Miller,* 2 Park. Cr. (N. Y.) 197; *Morss* v. *Morss,* 11 Barb. (N. Y.) 510. This, however, does not help matters much for very often the court is composed of a single judge, or if more than one, all are necessary to constitute a legal tribunal. The reasons advanced to support the rule laid down in the principal case are that the functions of judge and witness in the same person at the same time are inconsistent; that the judge cannot administer the oath to himself; that in testifying the judge would necessarily take sides and the jury would very likely give his testimony undue weight, and should a non-suit be asked for it would place the judge in an embarrassing position, for he would have to pass on the weight of his own testimony. However weighty these reasons may have been in the past at the present day they do not seem to be very convincing. As stated by Professor WIGMORE, "In all these objections there is a modicum of truth. Yet is it necessary on that account to lay down a universal prohibition?" WIGMORE, EVIDENCE, § 1909.